



Entered on Docket
May 21, 2009

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,¹

USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

USA CAPITAL FIRST TRUST DEED FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☒ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

**ORDER SUSTAINING OBJECTION OF
USACM TRUST TO PROOF OF CLAIM
OF ROSS DELLER SR AS FILED
PARTIALLY IN WRONG DEBTOR'S
CASE; OBJECTION OF DTDF TO
PROPOSED ALLOWANCE OF CLAIM**

Hearing Date: April 30, 2009
Hearing Time: 9:30 a.m.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 The Court having considered the “Objection of USACM Trust to Proof of Claim of
2 Ross Deller Sr As Filed Partially in Wrong Debtor’s Case; Objection of DTDF to
3 Proposed Allowance of Claim” [Docket No. 6981] (the “Objection”); with appropriate
4 notice of the Objection having been given; with no response to the Objection having been
5 filed; and good cause appearing:

6 **IT IS HEREBY ORDERED** that:

- 7 1. The Objection to Proof of Claim No. 10725-02484, filed by Ross Deller, Sr.
8 (“Deller”) is sustained;
- 9 2. \$150,000 of Deller’s \$250,000.00 claim against USACM is disallowed;
- 10 3. Any proposed allowance of Deller’s claim in the DTDF case is disallowed;
- 11 4. Deller is allowed to retain an equity interest in DTDF in the amount of
12 \$144,141.97 as reflected in the books and records of DTDF as of April 13, 2006; and
- 13 5. Nothing in this order should prejudice the rights of USACM Trust to file
14 further objections to any portion of the claim.

15
16 PREPARED AND RESPECTFULLY SUBMITTED BY:

17 **LEWIS AND ROCA LLP**

18 By /s/ John Hinderaker (018024)
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24
25
26

1 APPROVED/DISAPPROVED

2
3 By: _____
4 August Landis
Assistant United States Trustee

5 APPROVED/DISAPPROVED

6
7 By: /s/ Claire Dossier
8 Claire Dossier
9 SNELL & WILMER, LLP
Attorneys for USA Capital Diversified Trust Deed Fund

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☐ No parties appeared or filed written objections, and there is no trustee appointed in this case.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below (list each party and whether the party has approved, disapproved, or failed to respond to the document):

U.S. Trustee: August Landis	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input checked="" type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document
Other Party: Claire Dossier	
<input checked="" type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document

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Submitted by:

LEWIS AND ROCA LLP

By: /s/ JH (#018024)
 Rob Charles
 John Hinderaker
Attorneys for USACM Liquidating Trust